

CHRISTOPHER & WEISBERG, P.A.
200 East Las Olas Boulevard - Suite 2040
Fort Lauderdale, Florida 33301
Telephone: (954) 828-1488; Facsimile: (954) 828-9122

MAR 30 2006

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Application No: 10/047,860
Applicant(s): John R. Hind and Youngcheng Li
Filing Date: 1/15/2002
Entitled: EDGE DEPLOYED DATABASE PROXY DRIVER
Attorney Docket No, RSW920010181US1 (7161-16U)

Examiner: Charles Rones
Group Art Unit: 2165

Certificate of Mailing (37 C.F.R. 1.8(a))
I hereby certify that this correspondence is being deposited with the United States Postal Service Post Office as first-class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date set forth below.

January 31, 2006

Peggy Shock

Date of Signature and Mail Deposit

Name of Person Signing



Signature

Sir:

Transmitted herewith is a Reply to the Office Action mailed November 1, 2005.
The following checked items are applicable:

_____ sheets of formal drawings, FIGS. _____.

A Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent is herewith enclosed, as well as the small-entity terminal disclaimer fee of \$65.00.

A Petition for Extension of Time and the small-entity extension fee of \$60.00 for filing a response within the first month is herewith enclosed.

Copy of Notice of Change of Correspondence Address is enclosed.

CLAIMS AFTER AMENDMENT:	MINUS PRIOR PAID CLAIMS:	EQUALS PRESENT EXTRA CLAIMS:	RATE:	ADDITIONAL FEE:
Independent: 3	3	0	x \$ 200.00 -	\$ 0
Total: 19	20	0	x \$ 50.00 -	\$ 0
Multiple Dependent Claims (1st presentation)			+ \$ 360.00 =	\$ 0
Small Entity filing, divide by 2.				\$ 0
				\$ 0
				\$ 0

The fee has been calculated above; enclosed is a check in the amount of \$ _____.

A self-addressed, stamped postcard for verification and receipt is enclosed.

The Commissioner is hereby authorized to credit overpayments or charge payment of any additional fees associated with this communication to Deposit Account No. 09-0461.

Date: January 31, 2006


Attorney of Record: Steven M. Greenberg
Reg. No. 44,725
Scott D. Paul, Reg. No: 42,984
Customer No.: 446320

48956

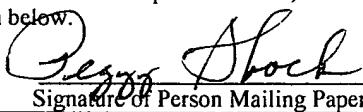


PATENT

Certificate of Mailing (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date set forth below.

Peggy Shock
Name of Person Mailing Paper


Signature of Person Mailing Paper

January 31, 2006
Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 10/047,860

Filing Date: 1/15/2002

Applicant(s): John R. Hind and Li Youngcheng

Entitled: EDGE DEPLOYED DATABASE PROXY DRIVER

Examiner: Charles RONES

Group Art Unit: 2175

Attorney Docket No.: RSW9-2001-0181US (7161-016U)

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants request that a Panel Review of the rejection in the Final Office Action dated November 1, 2005, be performed in the above identified application.

BEST AVAILABLE COPY

CLAIMS 1-18 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY SMITH ET AL., U.S. PATENT PUBLICATION APPLICATION NO. 2002/00658899 (HEREINAFTER SMITH)

At the outset, Applicants note that the Examiner's Final Office Action dated November 1, 2005, is replete with legal and factual errors. Moreover, the Examiner has cited law that does not exist and incorrectly reproduced passages from within Applicants' response and Smith.

In response to Applicants' argument that the Examiner has failed to comply with 37 C.F.R. § 1.104(c), the Examiner cited 37 C.F.R. § 1.192(c)(8)(iv) for the proposition that "Smith must be considered as a whole and not just the suggested citations relied on by the Examiner ... Applicant is response for the whole reference." At the outset, Applicants note that (i) 37 C.F.R. § 1.192 no longer exists; (ii) even when it did exist, 37 C.F.R. § 1.192 only applied to an Appeal Brief; and (iii) 37 C.F.R. § 1.192 did not support the Examiner's assertion. The Examiner has the responsibility to clearly identify the features in Smith being relied upon. However, in the Final Office Action, the Examiner only repeated the rejection, word-for-word, from the prior Office Action. The Examiner's attempt to clarify the rejection in the "***Response to Arguments***," as will be described in greater detail below, only servers to further obfuscate the Examiner's rationale for rejecting the claims under 35 U.S.C. § 102 for anticipation based upon Smith. By failing to specifically and clearly identify those features within Smith being relied upon in the rejection, the Examiner has essentially forced Applicants to engage in mind reading to determine how the Examiner is interpreting the elements of the claims and what features the Examiner believes identically disclose the claimed invention. Any continuing disagreement between Applicants and the Examiner as to whether a particular claimed feature is disclosed by Smith is a direct result of a lack of specificity by the Examiner in the statement of the rejection.

Claim 1 recites, in part, the following features (i) universal database connectivity driver; (ii) database server; (iii) database proxy driver; and (iv) database driven application. The Examiner's statements regarding the claimed database server evidence the Examiner's confusing rationale. The Examiner first states that "a 'database server' is shown in Figure 4, as 'web server' which too has a driver." The Examiner then asserts that "the 'Edge Cache 108' is clearly shown as an intermediary between the origin site (i.e., 'Web server') and clients." Thus, the Examiner is asserting that the "origin site" and the "Web server" are identical, yet the origin site 104 of Smith is separate from the web server 420 (see Fig. 4).

Presuming that the Examiner intended to assert that the web server 420 corresponds to the claimed database server, the Examiner is asserting that the edge cache 108 (presumably corresponding to the claimed "universal database connectivity driver") is between (i.e., an intermediary device) between the web server 420 (i.e., the asserted database server) and the client 102 (presumably corresponding to the claimed database proxy driver). However, upon viewing Fig. 4 of Smith, the edge cache 108 is not between the web server 420 and the client 102. Instead, the web server 420 is part of the edge cache 108.

Presuming the Examiner intended to assert that the edge cache 108 is between the origin site 104 and the client 102, the Examiner's assertion that the claimed "database driven application" is "taught in Figure 4, 412, Application Server, which has access to database, 130" raises issues. The claims recite the database driven application 160 (feature 412 of Smith) is linked to the database proxy driver 170 (presumably the client 102), which provides access to the

database server 190 (presumably the origin site 104) through an interface with an universal database connectivity driver 180 (presumably the edge cache 108) (see Fig. 1 of Applicants' disclosure). Moreover, independent claims 6 and 13 recite that a database connectivity request from a database driven application (i.e., feature 412 of Smith) is forwarded to an underlying database connectivity driver. However, Fig. 4 of Smith illustrates that the application server 412 (i.e., the asserted "database drive application") has direct access to the database 130. Thus, Smith fails to identically disclose the claimed interactions between the claimed features.

Furthermore, Applicants submit that the Examiner has failed to establish that, given the ordinary and customary meaning attributed to the term "database proxy driver," one having ordinary skill would have considered that the client 102 of Smith identically discloses the claimed database proxy driver. The term "proxy" implies an intermediary device through which communications pass. The client 102 of Smith, however, is not described as an intermediary device. Although the client 102 of Smith may interact with multiple devices, Smith does not teach that these devices communicate with one another through the client 102.

The Examiner's assertion that "on page 7, paragraph 0072, the OBDC is taught as being 'isolated'" is factually incorrect and not germane to the claimed invention. Paragraph [0072] of Smith only states that "other driver embodiments, such as the ODBC standard, provide for both an isolation level and a concurrency setting." Moreover, the Examiner has failed to establish that the OBDC is corresponds to the claimed universal database connectivity driver (i.e., "separate from the claimed database proxy driver").

Application No. 10/047,860
Attorney Docket No. RSW9-2001-0181US (7161-016U)

In the second full paragraph on page 8 of the Office Action, the Examiner has improperly asserted that Smith teaches a first exposed interface and a second exposed interface conforming with the first exposed interface. The Examiner stated that "since the database proxy driver and the universal database driver are communicating in the same network ... their interfaces are conforming to each other." Not only has the Examiner failed to factually establish that Smith explicitly teaches this limitation, on its face, this limitation cannot be considered to be inherently (i.e., necessarily) taught by Smith. The fact the certain devices may be communicating in the same network does not necessarily require that the devices have conforming interfaces. Millions of devices connect to the internet (i.e., "the same network"), yet all of these devices do not have conforming interfaces. Therefore, the Examiner has failed to establish that Smith explicitly or inherently discloses the claimed first and second exposed interfaces.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: January 31, 2006

Respectfully submitted,



Scott D. Paul
Registration No. 42,984
Steven M. Greenberg
Registration No. 44,725
Christopher & Weisberg, P.A.
200 E. Las Olas Blvd., Suite 2040
Fort Lauderdale, FL 33301
Tel: (954) 828-1488
Facsimile: (954) 828-9122